

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

J & K MECHANICAL, INC.
Employer/Petitioner

and

Case 07-RM-069501

LOCAL 33, SHEET METAL WORKERS'
INTERNATIONAL ASSOCIATION, AFL-CIO
Union

ORDER

Union's Request for Review of the Acting Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

MARK GASTON PEARCE, CHAIRMAN

BRIAN E. HAYES, MEMBER

RICHARD F. GRIFFIN, JR., MEMBER

Dated, Washington, D.C., February 3, 2012.

¹ In denying review, we find it unnecessary to rely on the Acting Regional Director's finding that the Employer was not bound by the successor agreements negotiated by the Union in 2011 in light of our finding that the relationship between the Employer and the Union was at all pertinent times governed by Sec. 8(f). *John Deklewa & Sons*, 282 NLRB 1375, 1385, 1387 (1987), enfd. sub nom. *Iron Workers, Local 3 v. NLRB*, 843 F.2d 770 (3rd Cir. 1988).

We further note that, despite our determination that the relationship here is governed by Sec. 8(f), the Union has maintained throughout this proceeding that it is the Sec. 9(a) representative of the Employer's employees; thus, the rule of *Albuquerque Insulation Contractor, Inc.*, 256 NLRB 61, 62-63 (1981), as confirmed in *PSM Steel Construction, Inc.*, 309 NLRB 1302, 1302 (1992), does not apply to the Employer's RM petition.